

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

KAMAU A. DAVIS,)	Case No. CV 15-0867-JGB (JPR)
)	
Petitioner,)	
)	ORDER DISMISSING HABEAS PETITION
vs.)	WITHOUT PREJUDICE AND
)	ADMINISTRATIVELY CLOSING CASE
JIM McDONNELL, Sheriff,)	
)	
Respondent.)	
)	

On February 6, 2015, Petitioner filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241, challenging criminal proceedings pending against him in the state trial court. (Pet. at 3-4.) On February 11, 2015, the Magistrate Judge ordered Petitioner to show cause why his Petition should not be dismissed without prejudice under the principles outlined in Younger v. Harris, 401 U.S. 37, 45-46 (1971), and its progeny. On April 7, 2015, Petitioner responded to the OSC.¹

Petitioner's response provides no basis for this Court to intervene in the state-court proceedings. He asserts that he has

¹Petitioner earlier filed a civil-rights action stemming from the criminal investigation against him and his subsequent arrest; that lawsuit remains pending. See Kamau A. Davis v. Cnty. of L.A. et al., No. CV 15-0313-JGB (JPR) (C.D. Cal. Jan. 15, 2015).


1 a liberty interest in having the correct procedures followed in
2 state court, and that that interest is currently being violated.
3 (Resp. at 4.) But he does not offer any legitimate explanation
4 as to why any error cannot be addressed after trial. He asserts
5 only that he will be subject to a less generous standard of
6 review in any postconviction federal habeas petition brought
7 under 28 U.S.C. § 2254 than he would be now (Resp. at 4), but of
8 course if that reasoning entitled him to pretrial review it would
9 do the same for all state detainees. The Court cannot sanction
10 such wholesale flouting of the Antiterrorism and Effective Death
11 Penalty Act's strict limits on obtaining federal habeas relief.

12 Nor does Petitioner's assertion that the Magistrate Judge
13 neglected to address four of his five claims for review in her
14 OSC make any difference in the result here. (Resp. at 6-8.)
15 Quite rightly, the Magistrate Judge did not consider the claims
16 in the Petition on the merits; rather, she tried to discern from
17 them any possible basis for immediately intervening in the state
18 proceedings given that Petitioner had not identified one. She
19 discussed and rejected the only even theoretical reason why
20 immediate federal action might be necessary. This Court, too,
21 cannot find any basis for reviewing Petitioner's claims until
22 after his convictions, should he suffer any, are final.

23 Accordingly, for the reasons stated above as well as those
24 expressed in the Magistrate Judge's February 11, 2015 Order to
25 Show Cause, the Petition is DISMISSED WITHOUT PREJUDICE to its
26 refiling if Petitioner is ultimately convicted in state court and
27 after that conviction has become final. Any such petition must
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1 comply with the time limitations of 28 U.S.C. § 2244(d)(1). The
2 Clerk is directed to administratively close this case.

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4
5 DATED: April 20, 2015



JESUS G. BERNAL
U.S. DISTRICT JUDGE

7 Presented by:

8
9 JEAN ROSENBLUTH
10 Jean Rosenbluth
11 U.S. Magistrate Judge
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